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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,197	06/07/2002	Jian-Zhong Yang	AA422F	9251

27752 7590 10/22/2002

THE PROCTER & GAMBLE COMPANY
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EXAMINER

SACKEY, EBENEZER O

ART UNIT	PAPER NUMBER
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1626

DATE MAILED: 10/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/070,197

Applicant(s)
JIAN-ZHONG YANG ET AL.

Examiner
EBENEZER SACKEY

Art Unit
1626



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sep 6, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3 6) ☐ Other:

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DETAILED ACTION

Receipt of the Information Disclosure Statement filed on 04/15/02 is acknowledged and made of record.

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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Claim Rejections - 35 U.S.C. § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deckner et al. WO 95/03781.

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Applicants claim a hair care composition comprising a polypropylene glycol selected from a single polypropylene glycol chain segment polymer of formula (I), a multi-polypropylene glycol chain segment polymer of formula (III) and mixtures thereof and a gel matrix comprising a cationic surfactant, a solid fatty compound and water.

Determination of the scope and content of the prior art (M.E.P.. §2141.01)

Deckner et al. disclose a personal cleansing composition comprising a polypropylene glycol, a cationic surfactant, a fatty compound and water. See the entire publication, especially page 10, lines 13-16; page 14, lines 31-34; page 15, lines 18-35; page 26, 24-35, example's 1, II, IV etc.

Ascertainment of the difference between the prior art and the claims (M.E.P.. §2141.02)

The instant claims differ from the prior art in claiming a hair composition with the stipulated ingredients whereas the prior art discloses a cleaning composition comprising the claimed formulation and additional ingredients. However, the prior art teaches that the composition can have different uses and additional ingredients. See page 10, lines 14-16.

Additionally, applicants use of "comprising," an open-ended word in defining

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the claims does not preclude the addition of other ingredients into the composition.

Finding of prima facie obviousness---rational and motivation (M.E.P.. §2142-2143)

Since the prior art teaches the instant composition, one of ordinary skill in the art would thus have been motivated to prepare compositions which can be used in the cleaning industry absent a showing of unexpected results or properties. Moreover, the intended use of the composition is given no patentable weight. Claims 2 and 3 refer to the composition reducing flyaway and bulk area by 25% and 10% respectively. The reference discloses that polypropylene glycol is useful as a humectant and deposition aiding polymers, which therefore, reduces the flyaway and bulk areas. See page 26, lines 24-35; page 36, lines 7-24. Claim 6 also require the composition to further comprise a hydrophobically modified cellulose ether. The reference discloses compositions comprising from 0% to about 10% of a polymeric thickener, such as an alkyl modified hydroxyalkylcellulose. See page 27, lines 15-29. Therefore, the instantly

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claimed composition would have been suggested to one of ordinary skill in the art absent a showing of unexpected results.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to E. Sackey whose telephone number is (703) 305-6889. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:30 pm.

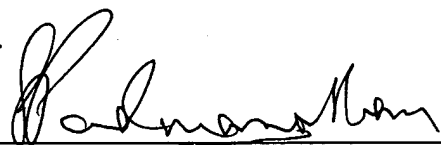
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane, can be reached on (703) 308-4537. The fax phone number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.

EOS

October 17, 2002

(for)



Joseph K. McKane

Supervisory Patent Examiner

Art Unit 1626, Group 1600

Technology Center 1

10/21/02